

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 03-10387-DPW
)
 EARL CHARLEY)

ASSENTED-TO MOTION TO CONTINUE SENTENCING BY ONE WEEK

Defendant, Earl Charley, hereby moves to continue the sentencing hearing in the above-entitled matter, presently scheduled for December 5, 2005, to December 12, 2005 or a date as soon thereafter as is convenient to the Court. As reasons therefore, counsel states the following:

1. The Court has allowed continuances of the sentencing in this matter to allow counsel to respond to the Probation Department's change in position concerning whether defendant was subject to the Armed Career Criminal Act. In the most recent request for continuance, counsel cited the personal necessity of taking leaves of absence to address the declining health of both of his parents.
2. On November 3, 2005, shortly after the last motion to continue was granted, counsel's father passed away. Counsel was required to take a longer-than-expected leave in order to attend to details resulting from his father's death and to relocate his elderly mother.
3. Upon returning from leave, counsel has been struggling to attend to a number of matters that have been delayed because of his need to take personal leave. Until this week, however, counsel was hopeful that this matter would not need to be continued.
4. A number of matters, however, are distracting counsel's attention from the instant matter. For example, counsel is presently to file a brief to the First Circuit in United States v. Gary Sagendorf, No. 05-1991. Additionally, counsel is in the middle of an

evidentiary hearing before Judge Lindsay in United States v. Andrew Lewis, No. 04-10317-RCL. That matter was expected to conclude today but has instead been continued to December 5, 2005, the same day as the sentencing hearing in this matter.

5. Defendant will have filed his response to the Probation Department's position by the close of business this day. The Probation Department has indicated that it will review the defendant's position and may file an amended final Presentence Report. Defendant intends to file a Sentencing Memorandum; if the Court should allow this Motion, defendant anticipates filing a Sentencing Memorandum in accord with the Court's procedural order.
6. Defendant therefore requests a continuance of the sentencing hearing by one week to enable him to file a timely sentencing memorandum.
7. The Speedy Trial Act does not apply to this Motion as defendant has already pled guilty.
8. The government, by and through Assistant U.S. Attorney Christopher Bator, assents to this motion.

EARL CHARLEY
By his attorney,

/s/ Timothy G. Watkins
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